

REMARKS/ARGUMENTS

Claims 1-30 are pending in the application; the status of the claims is as follows:

Claims 1-3, 16-18, 21 and 29 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,850,682 to Gerritsen ("Gerritsen").

Claims 4-15, 19-20, 22-28 and 30 have been indicated as allowable subject to an updated search and/or objected to as dependent upon a rejected base claim.

Please enter the amendments presented in the Amendment Under 37 C.F.R. §1.116 filed on September 15, 2003.

Claims 1 and 16 have been amended to more distinctly claim and particularly specify the claimed invention. These changes do not introduce any new matter and are not necessitated by the prior art, are unrelated to the patentability of the invention over the prior art, and do not introduce any new matter.

35 U.S.C. § 102(b) Rejection

The rejection of claims 1-3, 16-18, 21 and 29 under 35 U.S.C. § 102(b) as being anticipated by Gerritsen, is respectfully traversed based on the following.

An explanation of the Gerritsen reference was included in Applicants' prior response and is excluded here for brevity.

In contrast to the cited references, claim 1 includes:

wherein each recurrence of the second refractive index portion has a variable refractive index, and wherein, when the second refractive index portions are in a first refractive state, the optical functional device passes light having a first characteristic and blocks light having a second characteristic, and, when the second refractive index portions are in a second refractive state, the optical functional device passes light having the first characteristic and redirects light having the second characteristic.

The cited references do not show or suggest an optical device that “passes light having a first characteristic and blocks light having a second characteristic” in a first state. Therefore, the cited reference does not anticipate claim 1. Claims 2, 3 and 21 are dependent upon claim 1 and thus include every limitation of claim 1. Therefore, claims 2, 3 and 21 are also not anticipated by the cited reference.

Also in contrast to the cited references, claim 16 includes:

a controller for varying the refractive index of the plurality of second refractive index portions, and wherein, when the second refractive index portions are in a first refractive state, the optical functional device passes light having a first characteristic and blocks light having a second characteristic, and, when the second refractive index portions are in a second refractive state, the optical functional device passes light having the first characteristic and redirects light having the second characteristic.

As noted above, the cited references do not show or suggest an optical device that “passes light having a first characteristic and blocks light having a second characteristic” in a first state. Therefore, the cited reference does not anticipate claim 16. Claims 17, 18 and 29 are dependent upon claim 16 and thus include every limitation of claim 16. Therefore, claims 17, 18 and 29 are also not anticipated by the cited reference.

Accordingly, it is respectfully requested that the rejection of claims 1-3, 16-18, 21 and 29 under 35 U.S.C. § 102(b) as being anticipated by Gerritsen, be reconsidered and withdrawn.

CONCLUSION

Wherefore, in view of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and an early reconsideration and a Notice of Allowance are earnestly solicited.

Application No. 09/765,229
Preliminary Amendment dated November 19, 2003
Reply to Office Action of June 20, 2003

This Preliminary Amendment does not increase the number of independent claims, does not increase the total number of claims, and does not present any multiple dependency claims. Accordingly, no fee based on the number or type of claims is currently due. However, if a fee, other than the issue fee, is due, please charge this fee to Sidley Austin Brown & Wood LLP's Deposit Account No. 18-1260.

If an extension of time is required to enable this document to be timely filed and there is no separate Petition for Extension of Time filed herewith, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) for a period of time sufficient to enable this document to be timely filed.

Any other fee required for such Petition for Extension of Time and any other fee required by this document pursuant to 37 C.F.R. §§ 1.16 and 1.17, other than the issue fee, and not submitted herewith should be charged to Sidley Austin Brown & Wood LLP's Deposit Account No. 18-1260. Any refund should be credited to the same account.

Respectfully submitted,

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